

1 MICHAEL BAILEY
2 United States Attorney
3 District of Arizona
4 MICHAEL A. AMBRI
5 Assistant U.S. Attorney
6 State Bar No. 021653
7 United States Courthouse
8 405 W. Congress Street, Suite 4800
9 Tucson, Arizona 85701
10 Telephone: 520-620-7300
11 Email: michael.ambri@usdoj.gov
12 Attorneys for Defendant United States of America

13
14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE DISTRICT OF ARIZONA

16 Edward J. Gladney,
17 Plaintiffs,
18 vs.
19 United States of America,
20 Defendant.

4:17-CV-0427-DCB

**MOTION TO FILE ATTACHMENTS
TO EXHIBITS UNDER SEAL**

21 Pursuant to Local Rule of Civil Procedure 5.6, Defendant requests leave to file
22 under seal Attachments A, B, C and I to Exhibit 2, and Attachments D, E, F, G, H to Exhibit
23 3 of its Statement of Facts. The documents are as follows:

24 EXHIBIT 2

25 • Attachment A: Report of investigation of Plaintiff's sexual assault
26 allegations. The report contains information concerning the criminal histories Plaintiff and
the alleged assailant; identifying information of Plaintiff, the alleged assailant and
witnesses; photographs; information concerning BOP investigatory procedures; and
information concerning inmate transfer. Public disclosure of the information could put the
inmates in jeopardy of harm in their penal institutions and divulge investigatory methods
of the BOP.

27 • Attachment B: Medical record relating to Plaintiff, which contains Plaintiff's
28 identifying and medical information. Medical record is considered to be personal and

protected from public disclosure outside those involved in the litigation.

- Attachment C: Psychology Services record relating to Plaintiff. The document is a record of mental health services provided to Plaintiff and is considered to be personal and protected from public disclosure outside those involved in the litigation.

- Attachment I: Bureau of Prisons staffing guideline. The document contains confidential information divulging how BOP staffs its facilities. Public disclosure of the information would reveal BOP's means and methods and would educate inmates about the specific resources and methods employed to maintain security and order in the prison, enabling inmates to identify and exploit weaknesses in the system and circumvent the facility's security measures.

EXHIBIT 3

- Attachment D: Incident Report concerning a disciplinary matter of Plaintiff. Disclosure of the incident report containing details of the disciplinary matter, if disseminated within Plaintiff's facility, could subject Plaintiff to potential harm.

- Attachment E: Psychology Services record relating to Plaintiff. The document is a record of mental health services provided to Plaintiff and is considered to be personal and protected from public disclosure outside those involved in the litigation.

- Attachment F: Incident Report concerning a disciplinary matter of Plaintiff involving another inmate. Disclosure of the incident report containing details of the disciplinary matter, if disseminated within Plaintiff's facility, could subject Plaintiff and the other inmate to potential harm.

- Attachment G: Report of disciplinary proceeding and disposition concerning Plaintiff and involving other inmates. The report containing details of the disciplinary matter and identifying those involved, if disseminated, could subject the inmates to potential harm.

- Attachment H: Psychology Services record relating to Plaintiff. The document is a record of mental health services provided to Plaintiff and is considered to be personal and protected from public disclosure outside those involved in the litigation.

1 Filing under seal is appropriate to protect medical or mental health information or
2 to prevent potential improper use of the information. See *B2B CFO Partners, LLC v.*
3 *Kaufman*, 2011WL6297930, *3 (D. Ariz. 2011) (citing *Foltz v. State Farm*, 331 F.3d 1122,
4 1135 (9th Cir. 2003)); see also *Kamakana v. Honolulu*, 447 F.3d 1172, 1178 (9th Cir.
5 2006)); *Williams v. Nevada Dep't of Corr.*, No. 2:13-CV-941-JAD-VCF, 2014 WL 3734287,
6 at *1 (D. Nev. July 29, 2014) (citing *San Ramon Reg'l Med. Ctr., Inc. v. Principal Life Ins.*
7 *Co.*, No. C 10-02258 SBA, 2011 WL 89931, at *1 n. 1 (N.D. Cal. Jan. 10, 2011); *Abbey*
8 *v. Hawaii Emp'r Mut. Ins. Co.*, Civil No. 09-000545 SOM/BMK, 2010 WL 4715793, at *1-
9 2 (D. Haw. Nov. 15, 2010); *Wilkins v. Ahern*, No. C 08-1084 MMC (PR), 2010 WL
10 3755654, at *4 (N.D. Cal. Sept. 24, 2010); *Lombardi v. Tri West Healthcare Alliance*
11 *Corp.*, 2009 WL 1212170, at *1 (D. Ariz. May 4, 2009)).

12 The attachments are lodged in electronic form. A proposed order is submitted
13 herewith.

14 RESPECTFULLY SUBMITTED this 20th day of May, 2019.

MICHAEL BAILEY
United States Attorney
District of Arizona

/s/ Michael A. Ambri
MICHAEL A. AMBRI
Assistant U.S. Attorney
Attorneys for Defendant

Copy of the foregoing served by first class mail this 21st day of May, 2019, to:

22 Edward J. Gladney
23 No. 80179-279
USP Coleman II
P.O. Box 1034
Coleman, FL 33521

25 /s/ P. Vavra
Motion to Seal